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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

United States of America,
Plaintiff,
vs. Criminal Action No.: 3:21-mj-138-1
Jonathan Toebbe,
Defendant.

Proceedings had in the Initial Hearing in the
above-styled action on October 12, 2021, before the Honorable
Robert W. Trumble, Magistrate Judge, at Martinsburg,
West Virginia.

APPEARANCES
On behalf of the United States of America:

Jarod J. Douglas
Assistant United States Attorney
United States Attorney's Office
P.O. Box 591
Wheeling, WV 26003

Jessica Lieber Smolar
Assistant United States Attorney
United States Attorney's Office
700 Grant Street, Ste. 4000
Pittsburgh, PA 15219

The defendant was present in person.

Proceedings reported by means of digital recording; transcript
produced by computer-aided transcription.

1 (Digitally-recorded proceedings in open court.)

2 (October 12, 2021, 10:58 A.M.)

3 - - -

4 THE COURT: Good morning, everyone. Please be
5 seated.

6 All right. Good morning. If the parties are ready to
7 proceed, Tara, would you call the case, please.

8 THE CLERK: This is the case of the United States of
9 America versus Jonathan Toebbe, Criminal No. 3:21-mj-138,
10 defendant 1.

11 The government is represented by counsel Jarod Douglas and
12 Jessica Smolar, Assistant United States Attorneys. The
13 defendant is present and in person.

14 Are the parties ready to proceed?

15 MR. DOUGLAS: The government is ready to proceed,
16 Your Honor.

17 THE COURT: All right. Good morning, everyone.
18 We're scheduled for an initial appearance on a complaint this
19 morning. And just before we get started, I note that several
20 people are participating by Zoom conference. Anybody that's
21 participating by Zoom conference, make sure that your
22 microphones are off and that your cameras are off as well.

23 Mr. Toebbe, do you understand English, sir?

24 THE DEFENDANT: Yes, sir.

25 THE COURT: All right. My name is Robert Trumble.

1 I'm the United States Magistrate Judge. Would you stand and be
2 sworn by the clerk, please.

3 (The defendant was sworn in.)

4 THE DEFENDANT: I do.

5 THE COURT: Thank you. Please be seated.

6 Mr. Toebbe, are you a citizen of the United States?

7 THE DEFENDANT: Yes, Your Honor.

8 THE COURT: Sir, would you state your full name for
9 the record, please.

10 THE DEFENDANT: Jonathan Smay Toebbe.

11 THE COURT: And, Mr. Toebbe, what is your date of
12 birth?

13 THE DEFENDANT: November 9, 1978.

14 THE COURT: And what is your physical address? Where
15 do you reside, sir?

16 THE DEFENDANT: 125 Boyd Drive, Annapolis, Maryland,
17 21403.

18 THE COURT: All right. I -- before we proceed, I
19 have somebody that's participating by Zoom. You'll have to
20 turn off your camera, please. Anybody participating by Zoom,
21 keep their cameras off and keep their microphones off.

22 All right, sir, do you have a telephone number or a contact
23 number where you can be reached?

24 THE DEFENDANT: I only have a cell phone. It's
25 720-560-2750, sir.

1 THE COURT: All right. Thank you.

2 Mr. Toebbe, all persons who are charged with a crime are to
3 be brought before a judge as soon as possible after their
4 arrest. This is an initial appearance. It's not a trial. I'm
5 not here to determine your guilt or innocence here today; but I
6 am here to let you know of the charges that are pending against
7 you, to let you know you have a right to an attorney, and to
8 determine whether you'll be released pending your trial or
9 whether we have to set a detention hearing.

10 Now, sir, you are charged in a criminal complaint filed
11 here in the Northern District of West Virginia. Specifically,
12 you were charged with two offenses. One is conspiracy to
13 communicate restricted data in violation of Title 42, United
14 States Code, Section 2274(a), and the second charge is
15 communication of restricted data in violation of Title 42,
16 United States Code, Section 2274(a). Both of those charges
17 carry a particular penalty; and if you're found guilty of those
18 charges, each charge could result in up to life imprisonment, a
19 fine of \$100,000, and five years of supervised release. So
20 those are the charges contained in the complaint and the
21 penalties.

22 I've provided for you in written form your constitutional
23 rights, and they should be on the table in front of you. Do
24 you have them there, sir?

25 THE DEFENDANT: I do, Your Honor.

1 THE COURT: I'm going to read your constitutional
2 rights to you and ask that you follow along with me, please.

3 You have a constitutional right to remain silent. If you
4 give up your right to remain silent, anything you say can and
5 will be used against you in this or any other court of law.
6 Even if you may have given a statement to the police or others,
7 you have a constitutional right to make no further statement to
8 the authorities. If you start to make a statement, you have a
9 constitutional right to stop in mid-word or sentence and say no
10 more. You have a right to counsel to assist you in this
11 matter. If you cannot afford an attorney, you may qualify to
12 have an attorney appointed to represent you. And whether
13 appointed or retained, you have the right to the assistance of
14 counsel at every stage of the proceedings against you and
15 during any questioning by the authorities.

16 Mr. Toebe, do you understand your constitutional rights as
17 I've read them to you?

18 THE DEFENDANT: I do, Your Honor.

19 THE COURT: You have a right to retain counsel or ask
20 that counsel be appointed for you if you do not have the funds
21 to hire an attorney. I have on my bench a financial affidavit
22 that appears to bear your signature.

23 So first of all, sir, did you, in fact, complete this
24 financial affidavit?

25 THE DEFENDANT: I did, Your Honor.

1 THE COURT: Is the information that you provided
2 concerning your income, assets, obligations, and debts true and
3 correct to the best of your knowledge, information, and belief?

4 THE DEFENDANT: To the best of my knowledge, Your
5 Honor, yes.

6 THE COURT: Are there any errors, omissions,
7 corrections, mistakes -- anything that you need to bring to my
8 attention at this time?

9 THE DEFENDANT: No, Your Honor.

10 THE COURT: All right, sir. I find that you qualify
11 for court-appointed counsel and will so order.

12 Mr. Douglas, is the government moving to detain Mr. Toebbe?

13 MR. DOUGLAS: Yes, Your Honor, and the government has
14 filed a written motion.

15 THE COURT: All right. Mr. Toebbe, the government
16 has filed a motion to detain you so you'll have a right to a
17 detention hearing. And we're going to schedule your
18 detention hearing for this coming Friday, October 15, 2021, at
19 10:30 A.M.

20 Because this matter was brought as a complaint, you also
21 have a right to a preliminary examination hearing to
22 determine whether there's probable cause that you committed the
23 offenses to which you are charged. We'll conduct your
24 preliminary examination hearing on Wednesday, October 20, 2021,
25 at 1:00 P.M.

1 Mr. Toebbe, there's nothing really further we can
2 accomplish at an initial appearance. So with that in mind, you
3 are hereby remanded to the custody of the U.S. Marshals
4 Service, and we stand adjourned. Thank you.

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6 (Hearing concluded at 11:04 A.M.)
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CERTIFICATE

I, Kate A. Slayden, Registered Professional Reporter and Official Court Reporter of the United States District Court for the Northern District of West Virginia, do hereby certify that the foregoing is a true and correct transcript to the best of my ability of the digitally-recorded proceedings had in the above-styled action on October 12, 2021, as transcribed by me.

I certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

Given under my hand this 12th day of October, 2021.

/s/Kate A. Slayden

Kate A. Slayden, RPR, CCR
Official Reporter, United States
District Court for the Northern
District of West Virginia